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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/804,267      | 03/13/2001  | Yuji Kano            | 358.39731X00        | 9128             |

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12/16/2003

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| EXAMINER |
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NEWHOUSE, NATHAN JEFFREY

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| ART UNIT | PAPER NUMBER |
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3727

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/804,267

Applicant(s)

KANO, YUJI

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 and 36 is/are allowed.
- 6) ☒ Claim(s) 20-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidding et al. '945.

Hidding teaches a closure having anti-doming ribs 34 on the undersurface of the top wall of the closure. Hidding et al. discloses the claimed invention except for the thickness of the top panel of the closure, the thickness of the ribs and the area of coverage of the ribs(as set forth in claims 20-23 and 26-27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the closure with the top panel and ribs having a thickness as set forth in claims 20-23 and 26-27 and the ribs having an area of coverage as set forth in these claims, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Response to Arguments***

3. Applicant's arguments filed September 22, 2003 have been fully considered but they are not persuasive.

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With respect to applicant's arguments concerning the Hidding reference, these arguments are not found persuasive. Applicant argues that Hidding is not concerned with printing on the top surface of the cap, but Hidding teaches all of the limitations set forth in the claims except for the specific thickness of the lid and ribs, as well as the ribs area of coverage of the cap. Furthermore, it is to be noted that the rib thickness that applicant cites as being similar in configuration to that shown in Hidding(Dutt, US 4,560,077 teaches a thickness of 0.06 inches (not 0.6 inches as stated by applicant) which is approximately 1.5 mm. As this thickness is close to the upper limit of the thickness being claimed (1.2mm), obtaining these specific dimensions or thicknesses are matter of routine skill in the art. Applicant attempts to argue that Hidding is concerned with a different problem (pressure doming the top surface) than applicant's problem(printing on the top surface), however these two problems appear to be interrelated and providing ribs on the undersurface solves both of these problems. Therefore, the teaching of Hidding is pertinent to applicant's invention and the small difference in the dimensions are well within the capability of one of ordinary skill to obtain by routine optimization. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

With respect to applicant's arguments concerning the Japanese reference 910-35699, these are found persuasive and the rejections have been withdrawn and the claims are indicated as allowable. The translations of the pertinent parts of this reference state that the outer sealing protrusion is not made smaller than the outer diameter of the bottle neck and as the protrusion 34 deforms into the groove 32 to form

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an outer seal, it is unclear how the Japanese reference could be modified to make the outer sealing protrusion smaller as the Japanese reference already teaches an outer seal.

***Allowable Subject Matter***

4. Claims 1-19 and 36 are allowed.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

  
Nathan J. Newhouse  
Primary Examiner  
Art Unit 3727